

MINUTE ORDER

CASE NUMBER: CIVIL NO. 16-00659 LEK-WRP

CASE NAME: Gerard K. Puana et al., vs. Katherine P. Kealoha et al.,

JUDGE: Leslie E. Kobayashi

DATE: 10/05/2021

COURT ACTION: EO: COURT ORDER: GRANTING IN PART AND DENYING IN PART THE CITY'S MOTION TO STRIKE; DENYING THE CITY'S REQUEST FOR LEAVE TO EXCEED WORD LIMIT; AND DIRECTING THE CITY TO REFILE ITS REPLY AND CONCISE STATEMENT OF FACTS

On August 24, 2021, Defendant City and County of Honolulu ("the City") filed a Motion to Dismiss Second Amended Complaint (ECF No. 207) ("City Motion to Dismiss"). [Dkt. no. 216.] The City Motion to Dismiss is one of the matters scheduled for hearing on **October 15, 2021, at 9:45 a.m.** On September 24, 2021, Plaintiffs Gerard K. Puana and Ricky L. Hartsell, as Trustee of the Florence M. Puana Trust ("Plaintiffs"), filed a Memorandum in Opposition to Defendant City and County of Honolulu's Motion to Dismiss Second Amended Complaint and Cross-Motion for Partial Summary Judgment. [Dkt. no. 238.] On October 1, 2021, the City filed: a Motion to Strike Plaintiffs' Cross-Motion for Partial Summary Judgment, or in Alternative, for an Extension of Time ("Motion to Strike"); and an *Ex Parte* Motion for Leave to Exceed Word Limit for Its Response to Plaintiffs' Memorandum in Opposition to Defendant City and County of Honolulu's Motion to Dismiss Second Amended Complaint and Cross-Motion for Partial Summary Judgment ("Motion for Leave"). [Dkt. nos. 247, 248.]

The Court DENIES the Motion to Strike as to the City's request to strike the portion of Plaintiffs' September 24, 2021 filing that is a motion for partial summary judgment. The Court, however, GRANTS the Motion to Strike as to the City's request for an extension of time. Because a motion to dismiss and motion for summary judgment are analyzed under different standards, the Court will not consider Plaintiffs' motion for partial summary judgment at the motion to dismiss stage. The parties are DIRECTED to meet and confer, and to inform the Court in a letter brief of the parties' proposed briefing schedule for Plaintiffs' motion for partial summary judgment. The letter brief shall be submitted to this Court by **October 20, 2021**. The Court will issue a briefing schedule after it has reviewed the parties' proposed schedule.

Moreover, the Court DENIES the City's Motion for Leave. As the parties will submit a proposed briefing schedule for Plaintiffs' motion for partial summary judgment,

the City need not address that portion of Plaintiffs' September 24, 2021 filing in its reply in support of the City Motion to Dismiss. The City's reply and its concise statement of facts, filed on October 1, 2021, are therefore STRICKEN. The City is DIRECTED to file a new version of its reply by **October 8, 2021**. The new version of the reply must only address the City Motion to Dismiss, and it must comply with the page/word limit set forth in Local Rule 7.4(c). The hearing on the City's Motion to Dismiss will proceed as scheduled on **October 15, 2021**. The City is DIRECTED to refile its concise statement of facts according to the briefing schedule that will be established for Plaintiffs' motion for partial summary judgment.

IT IS SO ORDERED.

Submitted by: Agalelei Elkington, Courtroom Manager